

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
MAR 27 2006


WILLIAM LEITH,

CIV. 06-4042

Plaintiff,

vs.

ROBERT DOOLEY, Warden;
CORRECTIONAL OFFICER THOMPSON;
and LT. STEVENS, all defendants sued in
their individual capacities,

Defendants.

* ORDER ON MOTION
* AND
* RENEWED RULING ON
* PROTECTIVE ORDER
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Plaintiff's response (Doc. 20) to Defendants' Motion for Protective Order has been reviewed.

Upon reconsideration of the matter in light of Plaintiff's response, it is hereby determined the terms of the protective order adequately address the current concerns of all parties. Therefore, the terms of the protective order entered on March 20, 2006 (Doc. 17) shall remain in effect until further order of the court.

Also pending is Plaintiff's Motion for Appointment of Counsel (Doc. 19). Plaintiff requests the court appoint someone trained in the law to represent him. "Indigent civil litigants do not have a constitutional or statutory right to appointed counsel." Edgington v. Missouri Dep't of Corrections, 52 F.3d 777, 780 (8th Cir. 1995). The factors relevant to evaluating a request for appointment of counsel include "whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the plaintiff's ability to investigate the facts and present his claim." Davis v. Scott, 94 F.3d 444, 447 (8th Cir. 1996).

Plaintiff would likely benefit from the assistance of counsel because he is not trained in the law. The court would not benefit from the assistance of counsel at this point in the proceedings. This case is not factually complex. Plaintiff, although incarcerated, is able to investigate the facts of his claim. It is not clear at the present time whether there will be conflicting testimony in this case. The legal issues involved do not appear to be legally complex at this point in the proceedings. Considering all the relevant factors, and upon the record to-date, the Plaintiff's motion for appointment of counsel should be DENIED, without prejudice.

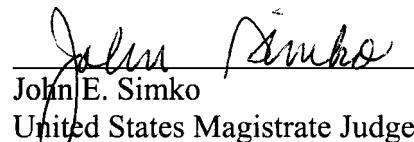
Based on the above, it is hereby

ORDERED that:

1. The Protective Order (Doc. 17) shall remain in effect until further order of the court;
2. Plaintiff's Motion for Appointment of Counsel (Doc. 19) is DENIED, without prejudice.

Dated this 24 day of March, 2006.

BY THE COURT:


John E. Simko
United States Magistrate Judge

ATTEST:

JOSEPH HAAS, CLERK

By: Debra L. Peter, Deputy